IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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S.B. CIVIL WRIT PETITION NO. 717/06
Meera Beniwal
Vs.
State of Rajasthan and Ors.

Date of Order : 08/02/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Ramdev Potalia for the petitioner.
Mr. Rameshwar Dave, Dy.G.A. for the respondents.

BY THE COURT:-

Heard learned counsel for the parties.

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to award additional bonus marks for participation in the National Level Sports vide Ex.8 and place the petitioner in the merit list at appropriate place after awarding 15 bonus marks for national level certificate.

It is contended by the learned counsel for the petitioner that the petitioner has been awarded 10 marks for the State Level Sports Competition but the petitioner participated in the national level competition held by Softball Association of

India vide Annex.8.

Learned Deputy Government Advocate appearing for the respondents submits that no mark is awardable for the certificate Annex.8 for the reason that the said competition was not organized by the State but it was an open tournament. Deputy Government Advocate further contended that the Senior Secondary (Vocational) Examination cannot be said to be equivalent to the senior secondary (Academic) Examination in view of the decision of this Court in Mrs. Krishna Punia Vs. State of Rajasthan and Ors. S.B.Civil Writ Petition No.621/2001 decided on 16.1.2002 which has been affirmed by Division Bench of this Court and the Hon'ble Supreme Court.

Learned counsel for the petitioner has relied on a Division Bench decision of this Court in Panna Lal Joshi Vs. State of Rajasthan and Ors. 2006 (6) RDD 3458 (Raj.), wherein this Court held that for the post of Physical Teacher Gr.III, Senior Secondary (Vocational) Examination is equivalent to Senior Secondary (Academic) Examination relying on a decision of Hon'ble Supreme Court in Sunita Sharma and Ors. Vs. State of Rajasthan and Ors. 2001 (10) JT 178 (SC).

Learned Deputy Government Advocate submits that Hon'ble Supreme Court in the case of Sunita Sharma and Ors. Vs. State of Rajasthan and Ors. (supra) has made it clear that the order has been passed in the peculiar circumstances arising

in the appeals and the said decision shall not be a precedent and the decision was therefore, in the peculiar facts and circumstances of that case. Be that as it may, according to learned counsel for the petitioner, the petitioner is entitled for 10.22 marks for the Secondary, even if Senior Secondary (Vocational) Examination is considered to be equivalent to Senior Secondary (Academic) Examination and 26.35 marks are given for that purpose, 19.22 marks for C.P. Ed., 10 marks for being domicile of the Rajasthan and 10 marks for participation in the State Level Competition, the total marks comes to 75.81%. The petitioner is a member of OBC and applied under that category. As per the reply of the State, the cut off marks for the OBC category to which the petitioner applied, is 79.87% and thus the petitioner is much below than the cut off marks. Even if the Senior Secondary (Vocational) Examination is considered to be equivalent to that of Senior Secondary (Academic) Examination, though this Court in Mrs. Krishna Punia Vs. State of Rajasthan and Ors., which has been upheld up to the Supreme Court, held that Secondary (Vocational) Examination is not equivalent to Senior Secondary (Academic) Examination the said decision was upheld by the Hon'ble Supreme Court, whereas the decision in Sunita Sharma Vs. State of Rajasthan (supra) being not the precedent, yet the petitioner falls short of cut of marks i.e. 79.87% marks. So far as the claim of the petitioner for awarding

15 marks for national level certificate is concerned, in my view, the petitioner is not entitled for 15 marks as the petitioner has not participated in the National Level Tournament organized by the State. This controversy came to be considered and decided by the Division Bench of this Court in Ganesha Ram Vs. State of Rajasthan and Ors. D.B.Civil Special Appeal (Writ) No.195/04 decided on 07.11.2006. In this view of the matter, I do not find any merit in the writ petition.

The writ petition is therefore, dismissed. There shall be no order as to costs.

(H.R.PANWAR),J.

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